REMARKS

Summary of Office Action

Claims 1-2 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Prakash et al. (U.S. Patent No. 6,434,626).

Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over McNally et al (U.S. Pat. No. 6,549,932) in view of Potter et al. (U.S. Pat. No. 7,222,148).

Summary of Amendment

Claims 1-3 are cancelled. Claims 4-9 have not been amended. No new matter has been added. Claims 4-9 are pending for consideration.

All Claims Are Patentable

Claims 1-2 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Prakash et al. Claims 7-9 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over McNally et al. in view of Potter et al. Applicants respectfully traverse.

Independent claims 4-6 recite, in part, executing a program comprising (1) issuing to each of the active devices one or more first requests for information comprising an indication of a presence of the device on the network and ***a device architecture*** and (2) receiving in response to the first requests, a response, and receiving ***based on the device architecture indicated in the response***, one or more scripts that request additional information about the device, ***wherein the scripts are customized for the device architecture indicated in the response***. The Office Action

relies upon Prakash et al. to disclose these features. The relied-upon portions of Prakash et al. disclose "[s]tatus request messages 541-544 and 551-555 [that] are generated in the exemplary two node SAN by respective governor IOPs 510 and 520, and may then be distributed across the SAN fabric. . . . As status request messages are generated and distributed to devices through the multicast messaging system of the present invention, responses may be propagated back to node 1 OSM performance monitor 310 in one of two modes; healthy and unhealthy." (*See, e.g.*, column 9, lines 22-65 of Prakash et al.) However, the status request messages 541-544 and 551-555 issued in Prakash et al. do not request information about the device architecture of the various devices on the SAN. Instead, in Prakash et al., the status request messages only request information about whether a device on the SAN is healthy or unhealthy. Therefore, Prakash et al. fails to disclose executing a program comprising (1) issuing to each of the active devices one or more first requests for information comprising an indication of a presence of the device on the network and ***a device architecture*** and (2) receiving in response to the first requests, a response as required in claims 4-6.

Furthermore, Prakash et al. fails to disclose receiving ***based on the device architecture indicated in the response***, one or more scripts that request additional information about the device, ***wherein the scripts are customized for the device architecture indicated in the response***. The Office Action relies upon column 10, lines 36-44 and 48-57, to disclose this feature. In particular, these relied-upon portions of Prakash et al. disclose that in response to unhealthy status response messages 731, 732, point-to-point communications may be established between node 1 performance monitoring OSM 310 and ailing devices only. Prakash et al.

further discloses that a subsequent request for detailed status information by node 1 performance monitor 310 in response to the receipt of unhealthy status responses 731 and 732 is made to the ailing devices, node 2 DEV-1 352 and node 2 DEV-3 371, and upon the ailing devices receiving detailed status request messages 831 and 832, node 2 DEV-1352 and node 2 DEV-3371 may issue detailed response messages 820 and 810, respectively, preferably directly to performance monitoring OSM 310. However, the detailed status request messages received by the ailing devices in Prakash et al. are not customized for a device architecture indicated in a response (i.e., a healthy or unhealthy message). The healthy and unhealthy messages generated in Prakash et al. do not contain any information about the device architecture, and therefore, the detailed status request messages and detailed response messages are not received or generated ***based on a device architecture indicated in*** the healthy or unhealthy message (i.e., the response). Accordingly, Prakash et al. fails to disclose at least executing a program comprising (1) issuing to each of the active devices one or more first requests for information comprising an indication of a presence of the device on the network and ***a device architecture*** and (2) receiving in response to the first requests, a response, and receiving ***based on the device architecture indicated in the response***, one or more scripts that request additional information about the device, ***wherein the scripts are customized for the device architecture indicated in the response*** as required in claims 4-6.

Independent claims 7-9 recite, in part, "a manager object including a plurality of worker threads operating in parallel" and "a plurality of request objects." As an initial matter, the Office Action relies upon McNally et al. to disclose the manager object including a plurality of worker

threads operating in parallel and the plurality of request objects. (*See* page 4, ¶ 9 of the 6/11/2009 Office Action.) The Office Action improperly asserts that a discovery agent of McNally et al. is both the plurality of worker threads operating in parallel and the plurality of request objects. However, as shown in FIG. 4 of the originally filed specification, for example, the manager object 300 including a plurality of worker threads 401 operating in parallel and the plurality of request objects 200, as claimed, interact with each other as distinct objects (*i.e.*, they are separate and different objects as claimed).

Furthermore, the Office Actions relies upon column 3, lines 15-17, column 8, lines 3-4, column 9, lines 15-23, and column 13, line 47 to disclose a plurality of request objects and asserts that "the plurality of request objects referred here are the request to discover the target device that the task deployment needed." However, these cited portions of McNally et al. refer to ***discovery agents***, including applets, which determine whether a node is an appropriate target for the deployment of the task. (*See, e.g.*, column 9, lines 14-22). The Office Action goes on to assert that the discovery agents of McNally et al. are also a plurality of work threads operating in parallel as required in claims 7-9. (*See* page 4, ¶ 9 of the 6/11/09 Office Action). Thus, the Office Action is relying on the discovery agents of McNally et al. to be both the plurality of request objects and the plurality of worker threads.

However, the discovery agents of McNally et al. cannot be both the claimed plurality of worker threads operating in parallel and the claimed plurality of request objects as asserted in the Office Action. If the discovery agent is equated with both the worker threads and the request objects as asserted in the Office Action, then McNally et al. fails to teach or suggest the

interactions between the worker threads and request objects recited in claims 7-9. Accordingly, McNally et al. fails to disclose both a manager object including a plurality of worker threads operating in parallel and a plurality of request objects.

In addition, claims 7-9 recite, in part, "distributing each of the plurality of request objects in the request queue to one or more of the plurality of worker threads." The relied-upon portions of McNally et al., namely column 3, lines 15-56 and column 8, lines 20-26, disclose a dispatch mechanism deploying into the network a set of one or more "discovery agents," which are considered in the Office Action to be the "worker threads" of claims 7-9, that are tasked to locate and identify suitable target(s) for deployment. However, McNally et al. fails to disclose distributing each of the plurality of request objects in the request queue to one or more of the plurality of worker threads because "a plurality of request objects" as claimed are not distributed to the discovery agents of McNally et al.

The Office Action admits that McNally et al. does not disclose "a request queue, organizing the plurality of the request objects in the request queue, a result queue, and organizing response of the plurality of the request objects in the request queue" and relies on Potter et al. to cure these deficiencies. Potter et al., at best, simply mentions the phrases "request queue" and "response queue" at column 2, lines 3-29. Potter et al. fails to disclose "organizing in the result queue each of the plurality of received request objects" or the use of a "request queue" or "result queue" as claimed.

Furthermore, it was not obvious at the time of the claimed invention **to try to incorporate** the teachings of Potter et al. into McNally et al. to include a request queue or a

result queue as claimed. A person having ordinary skill in the art at the time of the claimed invention would not have considered adding a request queue or a result queue because it was unnecessary. McNally et al. was focused on conventional network discovery mechanisms using discovery agents to identify endpoint machines for task deployment, and McNally et al. already included the capability to track those endpoints using an endpoint list. McNally et al. was not focused on the separation and coordination of synchronous and asynchronous operations to significantly improve the speed of discovery of active devices on a network through the use of a manager object including a plurality of worker threads operating in parallel, a request queue, and a result queue. (*See* McNally et al., Abstract.) Thus, the system described in McNally et al. is being modified to include the system of Potter et al. based on Applicant's own disclosure, and the Office Action's conclusion of obviousness is based on improper hindsight reasoning.

Finally, the rejection of claims 7-9 under 35 U.S.C. § 103(a) in view of McNally et al. and Potter et al. is respectfully traversed, in that the combination of McNally et al. and Potter et al. does not meet even the minimum criteria for "obvious to try" under *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007). The Office Action asserts that "[i]t would have been obvious to one of an ordinary skill in the art at the time the invention was made to try to incorporate [sic] the teaching of Potter into McNally because both McNally and Potter teaching of distributing requests from manager to a plurality of nodes to process the requests in parallel, and Potter also teaches a request queue, result queue, and organizing the requests in the request/result queue would produced a system that allowing processing of requests in a timely manner."

To reject a claim based on the "obvious to try" rationale, Office personnel must articulate the following:

(1) a finding that at the time of the invention, there had been a recognized problem or need in the art, which may include a design need or market pressure to solve a problem;

(2) a finding that there had been a finite number of identified, predictable potential solutions to the recognized need or problem;

(3) a finding that one of ordinary skill in the art could have pursued the known potential solutions with a reasonable expectation of success; and

(4) whatever additional findings based on the *Graham* factual inquiries may be necessary, in view of the facts of the case under consideration, to explain a conclusion of obviousness. *See* M.P.E.P. § 2143(E).

The Office Action fails to articulate any of these findings. Accordingly, because the Office Action fails to articulate any of these findings, **this rationale cannot be used to support a conclusion that claim 7-9 would have been obvious to one of ordinary skill in the art**. *See* M.P.E.P. § 2143(E). If the Office Action continues to rely on the "obvious to try" rationale to reject claims 7-9, Applicants respectfully request that the Office Action address each of these findings as required.

Hence, Applicants respectfully submit that claims 4-9 are patentable.

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CONCLUSION

In view of the foregoing, reconsideration and timely allowance of the pending claims are respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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